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12 *and Travelers Casualty and Surety Company*
of America

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 UNITED STATES OF AMERICA, for the Use
16 and Benefit of GALLAGHER-KAISER
Corp.,

17 Plaintiff,

18 vs.

19 ARCHER WESTERN CONTRACTORS,
20 LTD. a/k/a ARCHER WESTERN
CONTRACTORS, LLC; TRAVELERS
21 CASUALTY AND SURETY COMPANY OF
AMERICA,

22 Defendants.

23 ARCHER WESTERN CONTRACTORS, LTD.
24 a/k/a ARCHER WESTERN CONTRACTORS,
LLC,

25 Counterclaim-claimants

26 vs.

27 UNITED STATES OF AMERICA, for the Use
28 and Benefit of GALLAGHER-KAISER CORP.,

CASE NO. 2:15-CV-02150—RFB-PAL

**PARTIES' JOINT REPORT REGARDING
STATUS OF CASE AND PROPOSED
ORDER**

1 and

2 ARCH INSURANCE COMPANY, d/b/a ARCH
3 INSURANCE GROUP, INC.,

4 Counterclaim-defendants.

5 Gallagher-Kaiser Corp. ("G-K"), Archer Western Contractors, Ltd., formerly Archer
6 Western Contractors, LLC ("Archer Western"), Travelers Casualty and Surety Company of
7 America, and Arch Insurance Company (collectively "Parties") jointly submit this Status Report in
8 accordance with this Honorable Court's January 27, 2016 Order.

9 Upon the consent of the Parties, this Court's January 27, 2016 Order limited discovery to
10 whether specific claims or portions of claims asserted in this litigation by the Plaintiff are claims
11 which are or may be governed by Section 11.3 of the subcontract agreement executed between G-K
12 and Archer Western. Pursuant to the Court's Order, requirements under Rule 26(a) and (f), and
13 other discovery matters were deferred in this litigation until after April 30, 2016.

14 This Court's January 27, 2016 Order also required that, on or before April 16, 2016, the
15 Parties report to the Court on the status of discovery and their efforts to reach a joint agreement on
16 Plaintiff's claims that are not governed by Section 11.3 of G-K's and Archer Western's subcontract.
17 The Parties hereby file this Joint Report in accordance with the Court's Order, and state as follows:

18 1. G-K and Archer Western have exchanged documents in preparation of their
19 mediation with the FAA regarding the Project at issue in this litigation. Archer Western has also
20 tendered to G-K documents it has acquired from the FAA. Based upon the exchange of documents,
21 G-K and Archer Western are continuing to review and evaluate the information and documents
22 produced to determine the extent of further discovery. The mediation is scheduled for five (5) days,
23 starting May 9, 2016 and concluding May 13, 2016, and G-K and Archer Western are diligently
24 preparing for the mediation. Although G-K and Archer Western have not reached an agreement on
25 whether Plaintiff's claims are governed by Section 11.3 of their subcontract agreement, it is the
26 Parties' hope that their disputes with the FAA and the disputes in the case can be resolved at the
27 mediation.
28

2. In light of the upcoming mediation, the Parties request that the Court enter an Order extending the current deferment of discovery in this case under the same terms of the existing Order until June 15, 2016, and set a deadline of May 31, 2016, for the Parties to file a Joint Report on the status of the case and the outcome of the mediation. This would allow the Parties time to complete the mediation, attempt to resolve the disputes, and report back to the Court on whether their efforts were successful prior to complying with their requirements under Rule 26. The Parties' Proposed Order is attached hereto.

DATED this 15th day of April, 2016.

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AND

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of April, 2016, a copy of the foregoing document, PARTIES' JOINT REPORT REGARDING STATUS OF CASE AND PROPOSED ORDER, was served via electronic service (CMF/Pacer) as follows:

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA, for the Use
and Benefit of GALLAGHER-KAISER
Corp.,

Plaintiff,

vs.

ARCHER WESTERN CONTRACTORS,
LTD. a/k/a ARCHER WESTERN
CONTRACTORS, LLC; TRAVELERS
CASUALTY AND SURETY COMPANY OF
AMERICA,

Defendants.

CASE NO. 2:15-CV-02150—RFB-PAL

[PROPOSED] ORDER

ARCHER WESTERN CONTRACTORS, LTD.
a/k/a ARCHER WESTERN CONTRACTORS,
LLC,

Counterclaim-claimants

vs.

UNITED STATES OF AMERICA, for the Use
and Benefit of GALLAGHER-KAISER CORP.,

1 and

2 ARCH INSURANCE COMPANY, d/b/a ARCH
3 INSURANCE GROUP, INC.,

4 Counterclaim-defendants.

5 On January 27, 2016, this Court entered an Order limiting discovery to whether specific
6 claims or portions of claims asserted in this litigation by the Plaintiff are claims which are or may
7 be governed by Section 11.3 of the subcontract agreement executed between Gallagher-Kaiser
8 Corp. ("G-K") and Archer Western Contractors, Ltd., formerly Archer Western Contractors, LLC
9 ("Archer Western"). Pursuant to the Court's January 27, 2016 Order, requirements under Rule 26(a)
10 and (f), and other discovery matters were deferred in this litigation until after April 30, 2016. On
11 April 15, 2016, the Parties in this litigation jointly filed a Status Report advising the Court that
12 mediation between the FAA and the Parties is scheduled for May 9-13, 2016. Upon the consent of
13 the Parties, it is HEREBY STIPULATED AND AGREED as follows:

14 1. Until June 15, 2016, the Parties shall limit their activities in this matter to discovery
15 pursuant to Rules 33, 34 and 36 on matters germane to whether specific claims or portions of
16 claims asserted in this litigation by the Plaintiff are claims which are or may be governed by
17 Section 11.3 of the subcontract agreement executed on or about April 27, 2011.

18 2. By participating in the limited discovery as set forth in Paragraph (1), neither party
19 shall be deemed to have waived any rights, privileges, or defenses as to whether the claims or
20 portions of claims subject to the limited discovery are governed by Section 11.3 of the subcontract
21 agreement.

22 3. Except for the limited discovery set forth in Paragraph (1), Rule 26 shall govern all
23 discovery with the requirements of paragraphs (a) and (f) being deferred until after June 15, 2016.

24 4. On or before June 1, 2016, the Parties shall report to the Court on the status of the
25 mediation, their discovery, and their efforts to reach a joint agreement on Plaintiff's claims that are
26 not governed by Section 11.3 and thus are the proper subject of this litigation.

27 DATED this 15th day of April, 2016.
28

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25 *Company of America*

26 **ORDER**

27 IT IS HEREBY ORDERED.

28

United States District Court Magistrate Judge
Dated: April 20, 2016